

1893-047 Chancery Causes: W. S. Stivers + wife vs Crab Orchard Coal + Iron Co
Lee Co.

CA-Debt

T-Property

-Deed

To the Hon. H. S. K. Morrison, Judge of
Circuit Court for Lee County, Va.

Humbly complaining your orator
H. S. Stivers and oratrix Martha
Stivers would respectfully represent unto
your honor that on or about the 14th day
of Oct. 1890, they sold to the Crab Orchard
Coal and Iron Company, a corporation
existing under the laws of the State of
Virginia, their undivided interest in
a certain tract or parcel of land
lying and being in Lee County, Va.,
in the Crab Orchard country, and
on the waters of Reed's creek, for the
sum of \$270⁰⁰/₁₀₀; that said company
at the time it purchased said interest
in said land it paid down the
sum of \$135⁰⁰/₁₀₀, and made, executed
and delivered its note for \$135⁰⁰/₁₀₀, pay-
able twelve months after the 14th day
of Oct., 1890, which note is here filed
marked "B" and prayed to be con-
sidered as a part of this bill.

Your complainants will further show
unto your honor that at the time they sold
said interest in said land to said com-
pany they made, executed and deliv-
ered their deed thereto, reserving therein
their vendor's lien on said interest in

said land until said deferred payment due as aforesaid should be fully paid; that said deferred payment which became due Oct. 14th, 1891, nor any part thereof, has not been paid to your orator and oratrix, nor to either of them, and that the same and every part thereof with its interest since it became due is now owing, due and payable to your complainants.

Your complainants will again shew unto your honor that the interest which they sold to said defendant was a one-ninth undivided interest in the real estate of which Elijah Pennington deceased owned at the time of his death, and a like interest in the real estate which the said Elijah in his lifetime had conveyed to his wife for life: your female complainant being a daughter and heir at law of the said Elijah. See exhibit "C" filed.

Now your complainants are advised that the lien retained as aforesaid in said deed on said undivided interest on said land is capable of being enforced only in a court of equity and that your honor will

take cognizance of their said cause.
Hence their prayer is that the Great
Orchard Coal and Iron Company
be made party defendants to this bill,
that it be required to answer the sev-
eral allegations thereof; that a decree
be pronounced therein giving them
judgment for said sum of money
with interest thereon from the time it
became due; and if the same be not
paid within a reasonable time there-
after that a commissioner be appoin-
ted for the purpose of selling said
interest in said land, or so much
thereof as may be necessary to pay
the debt due thereon as aforesaid.
And that all such other, further &
general relief be granted your com-
plainants as good conscience and
the nature of their cause may demand.
May process issue &c. And they
will ever pray &c.

Orrington & Coins,

P. J.

13.53
 15.53
 Estimate 5.00
 \$34.06

P. & G.

1st March 1892

H. S. Stivers + wife

vs. { Bill in Chancery.

Crab Orchard Coal
 + Iron Company.

Note Enclosed.

1890 1st March Rules
 Bill filed & Decree nisi

" 2nd March Rules Contd

" 1st April " "

" 1st May " "

" 2nd May " Decree nisi Contd
 Cause set for hearing by Bill

" June Decree for sale
 + Continued

" Nov. no. Court.

1893, Mar contd

" June Decree final

Ord. 499

185-32
 810

\$193.42

Bid off by H. S. Stivers
 James at \$193.42
 Sept 19, 1892
 H. M. Stivers

8
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\$ 135.00

City of Bristol, Va., *Feb 14*, 189*0*

Office of the Crab Orchard Coal and Iron Co.,

Twelve

Months after date the "Crab Orchard

Coal and Iron Company" promise to pay

W. S. Stevens + Martha Stevens

the sum of *One hundred + thirty five* Dollars,

with six per cent interest after maturity, at the Company's Office in the city of

Bristol, Virginia it being the *Last* payment on land this day sold and

conveyed to said Company, and for value received. In witness whereof the

Crab Orchard Coal & Iron Company has caused these presents to be signed by

W. W. James, the Secretary and General Manager of said Company, and the

said W. W. James has hereunto set his hand and seal the day and year first

above written.

The Crab Orchard Coal and Iron Company,

By *W. W. James* (SEAL.)

Secretary and General Manager.

"B."

W. S. Stivers & wife,

Complts.

vs. In Chancery.

The Crab Orchard Coal & Iron Co.,

Defts

This cause came on again this day to be heard upon the papers formerly read therein & the report of A. M. Goins, who was on yesterday appointed a Commissioner for the purpose of making to the ~~purpose~~ purchasers of the land in the bill & proceedings mentioned a deed; On consideration of all which, and for reasons appearing to the Court and there being filed with said report a deed made by said Goins to H. H. James, M. M. Butler, B. L. Dalaney, J. S. Anderson, W. A. Sparger, Chas. L. James & B. J. James to said land, and no exception being taken to said report and deed, it is adjudged, ordered and decreed that said report and deed be and are hereby confirmed, and that said grantees in said deed pay to said Goins for his services as such Commissioner the sum of five dollars, and after the payment of the same said grantees may withdraw from the files of this cause said deed and this cause is stricken from the docket.

H. S. Stivers & wife

Decree final

Crab Orchard L. & L. Co.

Entered on O. V. B.

Page 499

June 9, 1893

J. A. G. Hyatt C

Enter this Decree

June 9, 1893,

H. S. Stivers

"

W. S. Stivers & wife,

Complts.

vs. { In Chancery.

Crab Orchard Coal & Iron Co, Defts.

This cause came on again to be heard upon the papers formerly read therein and the report of Commr. A. M. Goins, showing the collection and proper disbursements of the funds coming to his hands as special Commr. for the sale of the land in the bill and proceedings mentioned. On consideration of all which, it is adjudged, ordered and decreed that said report and disbursements be and the same are hereby confirmed. And said Goins, who is hereby appointed a special Commr. for the purpose, will make and execute to the purchasers of the land in the bill and proceedings a deed for the same, with covenants of special warranty. And he will report his action to this court at a future day of the present term.

W. S. Stivers wife

vs $\frac{1}{2}$ Decree

Crab Orchard Coal & I. Co.

Entered on O. T. D.

Page 486.

June 8, 1893

J. S. Hart &
" " "

Enter this Decree

this June 8, 1893.

W. S. Stivers

W. S. Stivers et al vs Campbell
vs.
Crab Orchard Coal & Iron Co } In Chancery

This cause came on again this day to be heard upon the papers formerly read therein, and the report of Comr. of the sale of the land in the bill mentioned. A. M. Gains, filed Oct. - 13th 1892. Said report having been filed for more than six days before the first day of this term of the Court, and the same being un- excepted to, it is adjudged, ordered and decreed that the said report, be & is hereby confirmed, and that said W. H. James, M. M. Butler, R. L. Sulamy, J. S. Anderson, H. A. Sparger, Charles L. James & B. J. James be entitled to take possession of said land at any time hereafter. And this cause is continued.

H. S. Stivers & wife

vs } Deceit no 2

Crab Orchard Coat

and Iron Co

Entered Chas
O. B. page 439
March 8 1893
J. A. Bryant

Enter this
March 8 1893.

H. S. Stivers

H. S. Stivers et al.

Compl't.

vs. } In Chancery.

Crab Orchard Coal & Iron Co.

Def't.

This cause came on this day to be heard upon the Bill of complaint and exhibits filed therewith, and it appearing that process has been duly served on said defendant for more than 15 days before the first day of this term of the court, and it failing to appear and plead or answer On motion of the complainant, the court doth take this bill for confessed

On consideration of all which and for reasons appearing to the court, it is adjudged, ordered and decreed that H. S. Stivers and Martha Stivers do recover from the defendant the sum of \$135⁰⁰/₁₀₀, with legal interest thereon from the 14th day of Oct., 1890, until paid and the costs of this suit. And it is further adjudged, ordered and decreed that unless said defendant pay said sum of money, its interest and the costs of this suit in 30 days from the rising of this court, then A. M. Goins, who is hereby appointed a special commissioner for the purpose will proceed to sell the land in the bill and proceedings

mentioned, or so much thereof as may be necessary to pay the said debt, its interest and the costs of this suit, on a credit of six months, except a sum sufficient to pay the costs, which he will require to be paid down, and for said deferred payment he will take bond payable to himself with good personal security. He will make said sale at the front-door of the court-house of Lee County on some court day at public outcry and to the highest bidder. Before proceeding to make said sale he will advertise the time, terms and place of sale for 30 days by notices posted at the front door of the court-house of this county, in the neighborhood of said land and at such other places as he may think necessary. But before proceeding to execute the terms of this decree he will execute bond before the clerk of this court in the penalty of \$500⁰⁰/₁₀₀, conditioned as the law requires in such cases. And this cause is continued.

W. S. Shivers & al

v3 { Decree No. 1.

Leal Archard Coal &

Iron Company

vs. Clerk

Q. B. pages 2

405-6.

June 9 1892.

W. S. Shivers & al

Enter this.

W. S. Shivers

June 9th, 1892.

W. S. Stivers & wife, Compt.
vs { In Chancery.

Crab Orchard Coal & Iron Co., Deft.

To the Hon. W. S. A. Morison, Judge of
the Circuit Court for Lee County, Va.

Your undersigned Special Commr.
begs leave to report, that, after duly ad-
vertising the time, terms, and place of
sale, as was required by the decree en-
tered in this cause at the June term,
1892, of your honor's court, he offered
for sale the land in the bill and pro-
ceedings, ^{mentioned} at public out-cry, at the
front door of the court-house, on Mon-
day Sept. 19th, 1892, that being a court
day, to the highest bidder, on a credit
of six months, except a sufficient sum
to pay the commissions of sale and the costs
of this suite, which sum was required to be
paid in hand. After much crying said
land was knocked off to H. H. James,
M. M. Butler, B. L. Dulaney, J. S. Anderson,
H. A. Sparger, Chas. L. James and B. J.
James for the sum of \$193⁴²/₁₀₀, this being

their bid and the highest offered. As required by the terms of said decree said purchasers ^{paid} your comr. in hand \$42.87, the amount necessary to cover the commissions of sale and the costs of this suit.

Your Comr. further reports that for the deferred payment of this sale said W. W. James, M. M. Butler, B. L. Dulaney, J. S. Anderson, W. A. Sparger, Chas. L. James and B. J. James executed to him their joint note for \$150.55, payable six months after date, and bearing interest from the date of sale.

Your Comr. will again report that the commissions arising from this sale and the costs of this suit have been paid, as may be seen from the receipts herewith filed.

All of which is respectfully submitted.

A. M. Goins,

Special Comr.

W. S. Stivers & wife

vs

Crab. Orchard Coal Iron Co.

\$18.55 Received of A. M. Goins Comr
in above styled Cause
Eighteen + 55 Dollars
my fees in full in said
Cause. Sept. 20. 1892.

J. A. Hyatt C

\$15.50
100

Received from A. M. Goins, comr.
in above styled cause, Fifteen + ⁵⁰/₁₀₀
dollars, our fee as Attorneys in
this cause and amount paid
sergeant city of Bristol for
executing process.

This Sept, 20, 1892,

Pennington & Goins.

Atty's

\$8.82
100

Retained \$8.82 ⁸²/₁₀₀ the commissions arising
from the sale of the land in
the above styled cause.

This Sept 20th 1892.

A. M. Goins,

Comr.

Received of A. M. Goins Comr, as above,
fifty cents (50 cts.) amount of
sheriffs costs advanced by me
in this cause, This Nov. 21, 1892.

R. D. Flanagan,

M. S. Stivers & wife
vs Comrs Report
Crab Orchard Coal
& Iron Company.

Filed Oct. 13th 1892
J. A. Hyatt

N. S. Stivers + wife, - - - Compl'ts.

vs. In Chancery.

Crab Orchard Coal + Iron Co., - Def'ts.

The undersigned here reports that at the June term, 1892, of your Honor's court he was appointed a Special Comr. for the purpose of selling the land in the bill and proceedings mentioned in this cause; that at the September term, 1892, he sold said land to the parties, on the terms, and in the manner reported by the undersigned in his former report filed in this cause on the 13th day of Oct., 1892. The undersigned now here further reports that the deferred payment of said purchase money for which said purchasers executed their bond for the sum of \$150.55, payable six months after date, and bearing interest from the date of sale, has been fully paid to him by said purchasers.

The undersigned also here further reports that after receiving said \$150.55 and interest, as above stated, that he paid the same over to E. H. Pennington Atty. for said Complainants and took his receipt for the same, which receipt is herewith filed, marked "A", as part of this report.

All of which is respectfully submitted,
this May 20th 1893,

A. M. Soins,
Special Comr.

(over)



May 15th

1893

A. M. Gains, ^{Cash} Clerk of W. H. James & Co.

One hundred & fifty six & 5/100 - - - Dollars

Bal. on note due W. S. Stevens & wife - In case of David
Stevens & wife vs. Lorak Orchard & Fruit & Cream Co.

\$156.55

E. W. Huntington
att'y

W. S. Stivers & wife

vs. } com's report.

Crab Orchard C. & J. Co.

Filed May 20th, 1893,

W. S. Shivers & wife, - - - Compls,
vs { In Chancery.

The Crab Orchard Coal & Iron Co., Deft.

To the Hon. H. S. K. Morrison, Judge
of the Circuit Court of Lee County, Va.:

The undersigned Special Commr.
begs leave to report, that, in pursu-
ance to a decree entered in the
above styled cause on the 8th day
of June, 1893, appointing him a
Special Commr. for the purpose of ma-
king and executing to the purchas-
ers of the land in the bill and proceed-
ings mentioned in this cause a deed
with covenants of special warranty;
he has complied with the order of
the court and has made said deed
as directed by said order, and the
same is filed herewith marked "D."

All of which is respectfully sub-
mitted, this June 9th 1893,

A. M. Louis,
Special Commr.

N.S. Stivers & wife

vs { Report of Comr. of
Deed.

Crab Orchard C. & I. Co.

Filed June 9th 1893

This Deed, made this 9th day of June 1893
between A. M. Loins Special Commissioner,
as hereinafter set forth, party of the first part
and H. H. James, M. M. Butler, B. L. Dula-
ney, J. S. Anderson, H. A. Sprager, Chas
L. James and P. J. James parties of the second
part; Whereas, by a decree of the Circuit
Court of the County of Lee entered on the
9th day of June 1892 in the Chancery cause
entitled H. S. Stivers & wife vs The Crab
Orchard Coal & Iron Company, therein de-
pending, it was, among other things, ad-
judged, ordered and decreed that A.
M. Loins who was thereby appointed
Special Commissioner for the purpose should
sell by public auction, after advertisement,
and upon certain terms in the said
decree fully set forth, certain real estate
therein described; and whereas the said
A. M. Loins pursuant to the said decree,
did on the 19th day of Sept 1892, after
having, duly advertised the same in ac-
cordance with the terms of the said decree,
offer for sale, by public auction, the following
described real estate to wit a one ninth
undivided interest in the real estate of
which Elijah Pennington died seized
and possessed, lying and being in Lee
County Va on the waters of Summers Brook,
in The Crab Orchard, and being the same
land on which said Pennington lived
at the time of his death at the time of

his death at which sale the said
H. H. James, M. M. Butler, B. L. Dulaney,
H. A. Sparger Chas L. James, B. J. James
and I. S. Anderson made the last and
highest bid therefor, and became purchaser
thereof at the price of One Hundred and
ninely-three $\frac{42}{100}$ Dollars; and whereas
the said sale was duly reported to the
Court by the said Special Commissioner,
and was by another decree entered in
the said Cause on the 8th day of March
1893, by the said Court, approved and
confirmed; and whereas the said H.
H. James, M. M. Butler, B. L. Dulaney,
I. S. Anderson, H. A. Sparger, Chas L.
James & B. J. James hath paid the whole
of the said purchase money, which pay-
ment was duly reported to the said Court
and whereupon, by another decree, entered
by the said Court in the said Cause on
the 8th day of June 1893, the said A. M.
Louis appointed Special Commissioner
to execute and deliver to the said H.
H. James, M. M. Butler, B. L. Dulaney,
I. S. Anderson, H. A. Sparger, Chas L. James
and B. J. James a good and sufficient
deed with special warranty conveying the
said real estate to H. H. James M. M.
Butler, B. L. Dulaney I. S. Anderson H.
A. Sparger, Chas L. James & B. J. James
in fee simple Now therefor this Deed
Witnesseth, That for and in consideration

of the premises and in obedience to the
said last-mentioned decree, the said
A. M. Goins Special Commissioner as aforesaid,
do grant unto the said W. W.
James, M. M. Butler B. L. Dulaney, J.
J. Anderson N. A. Sparger, Chas L. James
and B. J. James with Special warranty, the
real estate hereinbefore fully described.
Witness the following signature and seal,
A. M. Goins

State of Virginia County of Lee Civil:
I E. H. Pennington a Notary Public ⁱⁿ
for the County aforesaid, in the State of
Virginia, do Certify that A. M. Goins
whose name is signed to the writing
hereto annexed, bearing date on the 9th
day of June, 1893, has acknowledged the
same before me in my County aforesaid
Given under my hand this 9th day of
June 1893,
Virginia;

E. H. Pennington N.P.
In the County Court Clerk's Office of the
County of Lee the 14th day of February
1895 This Deed was this day presented
to me in my said office, and with the
Certificate annexed admitted to record
Teste J. V. F. Richmond clerk.
"H. Coffey"
"Teste"

M. H. James et al

From

A. M. Gorin Court,
copied from Dred Book
31 page 171.

C. 75-

Examined

"L"

W. S. Shivers Land.

To Mr. Hook.

KNOW ALL MEN BY THESE PRESENTS, That we

A. M. Gains
J. A. Hyatt
are held and firmly bound unto the Commonwealth of Virginia, in the sum of *Five*

Hundred dollars, to the payment whereof, well and truly to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents, hereby waiving the benefit of our homestead exemptions as to this obligation, and any claim, right, or privilege to discharge any liability arising under this bond, or by virtue of said office or trust, in any currency, funds, counter claims or offsets other than legal-tender currency of United States. Sealed with our seals, and dated *19th* day of *July*, one thousand eight hundred and *ninety two*

The Condition of The Above Obligation is Such, That if the above bound *A. M. Gains* shall faithfully perform the duties of *his* office or trust, as *Commissioner*

under a decree of the Circuit Court of the County of Lee, pronounced on the *9th* day of *July*, 1892, in the suit therein depending under the name and style of *W. S. Stivers wife* Plaintiff vs. *Crab, Broken Coal & Iron Co.* Defendant

and properly account for all sums of money. *he* may receive as such *Commissioner*

then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in the presence of *A. M. Gains* (SEAL.)

J. A. Hyatt security (SEAL.)

(SEAL.)

In the Clerk's Office of the Circuit Court of the County of Lee

This day
suret on the above bond, made oath before me J. A. G. Hyatt, Clerk of the Circuit Court of the County of Lee, that
estate after the payment of all just debts, and those
for which bound as securit for others, and expect to have
to pay worth the sum of dollars.

Given under my hand this day of 18

Teste: Clerk.

W. S. Stevens
Box
Cape Cod, Mass.

Filed July 19th 1892
J. A. S. Hyatt ©

The Commonwealth of Virginia.

Sheriff of Bristol Va
To The Sheriff Of Lee County Greeting:

We Command You to Summon

The Crab Orchard
Coal & Iron Company, a
Corporation organized and
existing under the laws of Virginia

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday
in *March* next, being rule day to answer a bill in Chancery exhibited in our said Court
against *it* by *W. S. Stivers*

and Martha Stivers

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.

This *5th* day of *February* 18 *92*, in the 11 *6* year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste

(C.W.P.)

W. S. Stivers et al

vs

The Crab Orchard
Coal & Iron Co.

So 1st March Rules 1892

on 11th day of Feb. 1892
Exhibited by delivery
ing an office copy
of the within
documents to W.
W. James, President and
General Manager of
The Crab Orchard
Coal & Iron Company
in the City of Bristol
Va. where the said
James resides

A. J. Cox
Sergeant
of said city

Sergeant of said Corporation

A. J. Cox

Tested on the 11th day of Feb. 1892, on the Crab Orchard
Coal & Iron Company, a corporation organized & existing
under the laws of the State of Va., by delivering an office copy
of the within documents to W. W. James, Secretary and General
Manager of said company in the Corporation of Bristol
Va., the said W. W. James residing therein. The
12th day of Feb. 1892.